

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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:
PATRICIA RANTA, et al., :
: 14-CV-3794 (FB) (LB)
Plaintiff, :
: November 24, 2020
:
v. : Brooklyn, New York
:
CITY OF NEW YORK, et al., :
:
Defendant. :
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TRANSCRIPT OF CIVIL CAUSE FOR TELEPHONE CONFERENCE
BEFORE THE HONORABLE LOIS BLOOM
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For the Plaintiff: PETER DEE, ESQ.

For the Defendant: MARK ZUCKERMAN, ESQ.
BRYAN HA, ESQ.

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1 THE CLERK: Civil cause for telephone status
2 conference, docket number 14-CV-3794, Ranta v. City of
3 New York.

4 Will the parties please state your names for
5 the record.

6 MR. DEE: This is Peter Dee with the law
7 firm of Mavronicolas & Dee for the plaintiffs.

8 MR. ZUCKERMAN: Mark Zuckerman, office of
9 the corporation counsel, for defendants City of New
10 York and Stephen Chmil.

11 MR. HA: Bryan Ha with the Law Office of
12 Richard Signorelli for defendant Louis Scarcella.

13 THE CLERK: The Honorable Lois Bloom
14 presiding.

15 THE COURT: Good afternoon, Mr. Dee, Mr.
16 Zuckerman, and Mr. Ha. This is a telephone conference
17 in plaintiff's civil rights action. I hate to say it
18 but it feels like the parties here are never going to
19 get anything done and we're going to be stuck in this
20 vortex of fighting about almost everything in the case.
21 This conference is to resolve the dispute regarding the
22 protective order. Defendants want a protective order
23 prohibiting the use of records from the underlying
24 criminal case outside of this litigation, and
25 plaintiffs will not agree.

1 Mr. Dee, I have said all along that they're
2 going to want something in place before they start
3 turning over other records. It's unclear to me, sir,
4 what Mr. Ranta's position is because you don't remember
5 Mr. Ranta. Okay, he signed a release and that enables
6 you, on behalf of his former spouse, plaintiff Patricia
7 Ranta, and his two children, Nicholas and Priscilla
8 Ranta, to get the records so you can try to make your
9 claim that this was negligent infliction of emotional
10 distress, that it was loss of consortium as to Patricia
11 Ranta, and that these two officers should not have been
12 hired and that it was negligent on the City to keep
13 them on or to hire them in the first place, that there
14 was no training.

15 MR. DEE: Correct.

16 THE COURT: So I don't really get why I'm
17 dealing with David Ranta. I don't have anything to do
18 with David Ranta and you shouldn't have anything to do
19 with him, either. And if you want to represent him in
20 a separate proceeding, that's fine, but he's not in
21 this proceeding. So why am I hearing that you have to
22 turn these documents over to him? That's not what he
23 signed. He signed something giving you authority to
24 get these documents for the purpose of the case against
25 Patricia -- the case where you're representing

1 Patricia, Nicholas, and Priscilla.

2 MR. DEE: Yes. He's authorized me to act as
3 his agent in order to get those documents, to which
4 he's entitled.

5 THE COURT: But he's not party to this case,
6 sir.

7 MR. DEE: That's correct, and I submitted
8 the authorization through a FOIA request, actually, not
9 even through anything technically connected with this
10 case. So when I informed him, after our conversation
11 with the D.A. which Mr. Zuckerman arranged, the D.A.
12 informed us that the records that David Ranta's prior
13 lawyer had received with his own authorization was a
14 more limited set of documents than what we will expect
15 to receive. And when I informed Mr. Ranta of that, he
16 said, well, I want copies -- I want copies. He wants
17 to see what's new in his record that's now being turned
18 over that wasn't turned over before.

19 THE COURT: That's fine, but he can file his
20 own separate case. I don't have him in this case. So
21 I understand that he signed a release and from what I
22 understand, the law has changed, which is why his
23 lawyer did not get everything that they may produce to
24 you. But unless you're representing him in some
25 capacity, I shouldn't be dealing with David Ranta.

1 He's not part of this case.

2 Mr. Zuckerman, the City settled the case
3 with Mr. Ranta. I don't know if there were any
4 provisos in that case that he had to keep anything
5 confidential. So I don't understand why the City is
6 expecting me to deal with David Ranta in this case,
7 where he's not a party.

8 MR. ZUCKERMAN: Well, your Honor, as you
9 ruled I believe at the last conference that these
10 documents --

11 THE COURT: I did not rule. I did not rule.
12 I say that generally speaking, parties enter into
13 confidentiality agreements, which means that they're
14 only going to exchange documents for the purpose of
15 this litigation, and that they agree that they're not
16 going to do anything with those documents like put them
17 on the internet. But Mr. Dee is not saying he's going
18 to put them on the internet and Ms. Priscilla,
19 Nicholas, and Patricia Ranta aren't saying they're
20 going to put them on the internet.

21 MR. ZUCKERMAN: Well, we don't believe that
22 a 160.50 release that was provided to the Kings County
23 D.A. for use in this case should be used as a funnel of
24 documents that are produced in this case by Mr. Dee to
25 David Ranta, who is a nonparty. I mean, it's just not

1 appropriate.

2 THE COURT: So if David Ranta wants to apply
3 -- excuse me. If David Ranta wants to apply for those
4 documents, he'll be entitled to them, won't he?

5 MR. ZUCKERMAN: I don't know what objections
6 if any the Kings County D.A. may have but that's not
7 what's being dealt with in this case.

8 THE COURT: I agree with you that that's not
9 what I need to deal with in this case, but that's what
10 both sides are presenting to me as the dispute here.

11 So, Mr. Dee, I do believe you're entitled to
12 get documents and I do believe that the documents
13 should be produced to you, and I do believe that your
14 clients have gotten permission from David Ranta to get
15 those documents.

16 MR. DEE: Correct.

17 THE COURT: What else is it that I need to
18 discuss about Priscilla, Nicholas, and Patricia Ranta,
19 because as to David Ranta's rights, unless you
20 represent him in this matter, I don't know what his
21 rights are just because he signed something saying that
22 you are authorized as his agent to get these records.

23 MR. DEE: Well, as his agent, he's asked me
24 to give him copies of the records and it's his -- as we
25 discussed at the last conference, the whole purpose

1 about sealing this is to protect him, not the City --

2 THE COURT: I understand that but he's not a
3 plaintiff before the Court and you're asking me to
4 make --

5 MR. DEE: I understand, your Honor.

6 THE COURT: You're asking me to make a
7 determination on whether or not he's entitled to
8 documents, where I do not have him as a party to this
9 litigation. Why don't you file a separate matter for
10 him and you could duke it out with the defendants. If
11 this was a FOIA request, that's state law, it's not
12 even federal law. FOIA is a state law. So if he
13 wanted the same documents that are being produced to
14 you as counsel to his ex-wife and children, he may be
15 entitled to them, but I don't know that he has to get
16 them through this case. He authorized you as his agent
17 to get those disclosures for this case, Mr. Dee.

18 MR. DEE: Correct, but he also asked for a
19 copy, which he's entitled to, of the documents through
20 me as his agent, and I submitted the request as a FOIA
21 with the authorization attached. I didn't even
22 reference this case necessarily. So the issue of him
23 signing the form and me submitting it to the D.A.'s
24 office, that really is outside of this case. The D.A.
25 is treating it as though it's a subpoena response

1 according to them but technically, it's a FOIA request
2 that I submitted with the proper authorization. If the
3 D.A. wants a protective order, they can seek one in
4 state court as you note.

5 But part of the scope of my agency as the
6 recipient of those documents is to give a copy to him
7 and he can do with them, as his documents, what he
8 wants. And as I mentioned to Mr. Zuckerman, if he
9 wanted to put some things on the internet, I can't stop
10 him from doing that. These are his -- these are
11 technically his documents so I don't understand why we
12 to have some specific details of confidentiality and
13 use of those documents in an order in this case, where
14 really it's up to him what he wants to do with those
15 documents. And what the City is really trying to do
16 here is limit the use of these documents in a way that
17 will curtail me and David Ranta potentially in the
18 future for whatever else he might want to use them for,
19 and I don't think that's appropriate.

20 THE COURT: I have no interest in curtailing
21 David Ranta. He is not a party to this action. I do
22 believe that under ordinary circumstances, when a case
23 is filed, and it could be an employment case, and there
24 are going to be records turned over of other people who
25 worked for the employer, there's going to be a

1 protective order, which I generally oversee and I get
2 it to be mutual.

3 So for instance, Patricia Ranta is having to
4 turn over records regarding her medical and mental
5 health treatment, so I wouldn't want the defendants to
6 be able to use that for any other purpose. So the
7 protective order would protect Ms. Ranta's rights
8 regarding her medical records, which she had to sign a
9 release in order for those records to be used in the
10 case. So I understand what you're saying to me but how
11 do we resolve this?

12 And, Mr. Zuckerman, I do believe that Mr.
13 Dee's point is well-taken, that there is a state law
14 process for you to try to stop David Ranta from using
15 these documents. I don't know what you're going to
16 claim as the basis since I do believe Mr. Dee has
17 correctly stated the purpose of the law is to seal the
18 documents to protect the person who was wrongly
19 convicted. And since the City already settled this
20 case that Mr. Ranta brought, I'm not interested in
21 dealing with David Ranta's claim and the City's
22 reluctance to turn over documents in his ex-wife's
23 case. I don't think you've given me any law. I do
24 understand that you made some progress, that the Kings
25 County D.A. said they've produced the disks that had

1 previously been produced to Pierre Sussman (ph) and
2 that that would be produced within two weeks.

3 Was that already done, Mr. Dee?

4 MR. DEE: No. By the way, Mr. Zuckerman
5 informed them not to produce the documents until this
6 issue was resolved between us and the Court and I take
7 issue with that.

8 MR. ZUCKERMAN: I asked them to wait until
9 we get a ruling on the confidentiality part of this so
10 we have a ruling before they do it, but they're ready
11 to turn them over.

12 THE COURT: Again, your letter to me said
13 that they were going to produce it within two weeks,
14 and that letter was sent to me on November 10th, and I
15 do believe we're two weeks past that date. Look, I
16 don't want you to play this on both sides, Mr.
17 Zuckerman. That does nothing for us, all right? You
18 have this situation. I understand the City and the Law
19 Department's position but I do not have a case where
20 David Ranta is at issue. He is not part of this case.
21 He's already signed a rehearse. That release was to
22 make Mr. Dee his agent, and I don't understand why I am
23 being called upon to deal with somebody who is a
24 nonparty who has a right to those records.

25 MR. ZUCKERMAN: Your Honor, I don't believe

1 he has a right to those records through this
2 proceeding. The last time we met, we talked about a
3 resolution where the Kings County D.A.'s office was
4 going to turn over documents to Mr. Dee to be produced
5 to us as part of this case and for the purposes of this
6 litigation. There was nothing about documents going to
7 David Ranta. If David Ranta wants these documents, he
8 should submit a proper request, either in --

9 THE COURT: He did, he did, he did.

10 MR. DEE: He did. He did through me.

11 THE COURT: Through Mr. Dee.

12 MR. DEE: Exactly. Your Honor --

13 THE COURT: He filed a FOIA request through
14 Mr. Dee. Mr. Dee filed it on his behalf.

15 MR. DEE: And if I -- and what we should put
16 in this protective order is that the defendants, when I
17 turn it over to them, analogous to the plaintiff's
18 medical records, are bound to the confidentiality. If
19 David Ranta decides he wants to do something or
20 instructs me to do something outside of this case with
21 respect to those records, that's his choice.

22 THE COURT: I don't agree with you there
23 because, again, I don't really understand why David
24 Ranta -- are you representing him?

25 MR. DEE: Only in so far as I'm the agent to

1 receive these records for him.

2 THE COURT: Well, again, if you're the agent
3 to receive the records and you're receiving the records
4 on behalf of his former spouse and his children, then
5 you can be subject to a mutual confidentiality order
6 for the purpose of this proceeding. But that doesn't
7 tie David Ranta's hands because he's not a party to
8 this proceeding.

9 And if he is somebody who is entitled to
10 these documents, Mr. Zuckerman, then I don't know what
11 the City expects the Court to do. The FOIA law says
12 that somebody has the right to get their documents in
13 their underlying criminal case where that criminal case
14 has been sealed for their protection. So he's entitled
15 to these documents.

16 MR. ZUCKERMAN: Your Honor, the FOIL -- a
17 FOIL request is different from the scope of documents
18 that would be produced in this litigation, and it was
19 the Kings County D.A.'s understanding from the last
20 conference that these documents were being turned over
21 for use in this litigation. It wasn't -- these
22 documents are not being produced in response --

23 THE COURT: Mr. Zuckerman, I've never had
24 the Kings County D.A. on the line, I've only had you on
25 the line. So when you're telling me that it was their

1 understanding, we're talking about the game of
2 telephone here because I've never had the Kings County
3 D.A. come on the line. And if they wanted to be an
4 interested party and give me case law to support their
5 position, they were entitled to do that. But instead,
6 you keep writing letters to me as if I've already ruled
7 on this.

8 I have not, and you're not supplying me with
9 anything other than the argument that they shouldn't
10 have to turn over documents to David Ranta. I'm not
11 turning documents over to David Ranta. Mr. Dee has
12 gotten him to sign a release, which is a 160.50
13 release, so I don't know why you're saying it isn't.

14 MR. ZUCKERMAN: All I'm saying is that a
15 response to a FOIL request will necessarily involve
16 different documents than documents that are being
17 produced in this litigation. All I'm saying is that
18 the Kings County D.A. has not responded to the FOIL
19 request of Mr. Dee that he's apparently making on
20 behalf of Mr. Ranta. They're two different things.

21 THE COURT: And when I tell you that Mr. Dee
22 has gotten Mr. Ranta to sign a CPL 160.50 release, can
23 we agree that that has happened?

24 MR. ZUCKERMAN: Yes.

25 THE COURT: So maybe there's a FOIA request

1 that's separate and apart but that CPL 160.50 provides
2 that sealed records shall be made available to the
3 person accused or to such person's designated agent.
4 Isn't that correct?

5 MR. ZUCKERMAN: I would disagree. An
6 unsealing release just unseals documents. It doesn't
7 indicate the scope of the documents that have to be
8 produced.

9 THE COURT: Do I have to go back and pull
10 the 160.50 release? I think I'm quoting from the
11 actual form 160.50 release: "That the sealed records
12 shall be made available to the person accused or to
13 such person's designated agent."

14 MR. ZUCKERMAN: There still has to be a
15 subpoena or a document request or a FOIL request,
16 depending on the type of proceeding in which the
17 unsealing release is being provided.

18 THE COURT: Mr. Zuckerman, you are going
19 around and around and around in circles. Mr. Dee has
20 produced an unsealing request signed by David Ranta.
21 Mr. Dee is entitled to those records. You are saying
22 unless he signs something, the Brooklyn D.A. doesn't
23 want to give him the records, but you've given me no
24 basis for withholding those records.

25 MR. ZUCKERMAN: I'm not trying to have the

1 Kings County D.A. withhold the records. I'm saying
2 those documents should not be funneled by Mr. Dee to
3 David Ranta, and then he's going to put them on the
4 internet and somehow we're barred by responding. I
5 mean, that's not appropriate.

6 THE COURT: Why are you barred -- why are
7 barred by -- what is barred by responding? You want to
8 go on the internet, too? You can go on the internet.

9 MR. ZUCKERMAN: Not really but --

10 THE COURT: I'm not -- I'm not preventing
11 you. But all I'm saying is, I cannot govern Mr. David
12 Ranta and I cannot say to Mr. Dee that if Ranta signed
13 this and if 160.50 provides that the sealed records
14 shall be made available to the person accused or to
15 such person's designated agent, it covers David Ranta.
16 Doesn't that sound reasonable to you, Mr. Zuckerman?

17 MR. ZUCKERMAN: Well, there still has to be
18 either a proper mechanism for --

19 THE COURT: What is the proper mechanism,
20 sir? You're really driving me a little bit crazy.
21 What's the proper mechanism? He did a FOIA request.
22 You're saying it's not that. He did a 160.50 rehearse.
23 You're saying it's not that. What is the proper
24 mechanism.

25 MR. ZUCKERMAN: I mean, it's a request -- I

1 mean, the proper mechanism is actually a subpoena but
2 the Kings County D.A. agreed to produce these documents
3 without a subpoena.

4 MR. DEE: I'll be submitting a subpoena as
5 well just so we don't have this dispute later. I'll do
6 a subpoena, I've already done the FOIA request, I've
7 got the release. If the D.A. wants to designate
8 certain documents confidential or file their own motion
9 for a protective order, I'd be happy to address that,
10 but this is just undue delay. It's been six years
11 since we filed this case, it's been about thirty years
12 since David Ranta was put in jail. It's too much, and
13 we're not going to allow the City to take little
14 shortcuts here to try and get some other objective. I
15 mean, this is not how this should be done.

16 THE COURT: Mr. Dee, I mostly agree with
17 that you're saying but I also have an issue with -- I
18 don't have David Ranta in this case. I have no way of
19 controlling David Ranta's behavior. But I also
20 understand that if he's not a plaintiff in this case
21 and the people that you do represent have some sort of
22 -- I wouldn't say it's a conflict but they have very
23 different interests and claims here. You're not saying
24 that Patricia Ranta or Priscilla Ranta or Nicholas
25 Ranta want to put these things on the internet.

1 MR. DEE: I'm not saying anybody does. I'm
2 just saying if David gets these documents, I don't want
3 to have him be bound by a confidentiality order that
4 doesn't let him use them how he would otherwise be
5 authorized to use them, as someone who was wrongfully
6 framed and put in jail for 25 years. If he wants to
7 put these things --

8 THE COURT: Again, I do not have David Ranta
9 in front of me so I would not enter into any sort of
10 order where David Ranta's conduct is the subject. He
11 is not a party to this action.

12 MR. DEE: Exactly, your Honor. All I would
13 ask is that we require the defendants to maintain a
14 confidentiality of those unsealed documents, just like
15 they would of plaintiff's medical authorizations. My
16 agency to deal with these documents for David is
17 between myself and him. If I abuse that agency to him,
18 he has his proper methods to deal with that. It's not
19 for the City to try to curtail how -- you know, the
20 scope of that agency or what he might do with those
21 documents.

22 THE COURT: Mr. Zuckerman, I don't find that
23 there's any basis that's been presented to the Court
24 which would authorize the withholding of the documents
25 that were supposed to be turned over. That was just

1 the first production of disks pursuant to the FOIL
2 request. You say that the remainder of the responsive
3 documents that are not privileged are going to be
4 produced in February and there will be a privilege log.
5 So, you know, again, it said, counsel for all parties
6 met telephonically with a representative of Kings
7 County D.A.'s office and accepted this approach.
8 That's what should have happened. You should have
9 turned over those disks of the documents previously
10 produced.

11 And as to any of the new documents, you have
12 your method here. You can claim that there's a
13 privilege and produce a privilege log or you'll turn
14 them over in February, 2021. I don't understand why
15 I'm being asked over and over again, Mr. Zuckerman, to
16 decide something that I've already told you -- I don't
17 have David Ranta, Mr. Dee is entitled to get these
18 documents. And if you want an order saying unless
19 they're turned over within X period of time, it's going
20 to be on the City, not on the D.A. because, again, I
21 don't have Mr. Ranta before me.

22 There is nothing in 160.50 that says I must
23 get Mr. Ranta to sign something saying he's only going
24 to use them for this litigation. He's not in this
25 action, he's not before the Court. We both need,

1 meaning plaintiff and defendant in this case both need
2 the records in order to litigate this case. I gave you
3 time when the case first was called to see if the City
4 wanted to settle the case.

5 The City obviously didn't put anything on
6 the table that the Ranta children and wife wanted, ex-
7 wife wanted, and so here we are. And you were supposed
8 to turn them over by your own words by today. Mr.
9 Zuckerman, those are going to be produced tomorrow, by
10 the 25th, by 5:00 on the 25th.

11 MR. ZUCKERMAN: It's my understanding --
12 assuming they're in tomorrow at the Kings County D.A.,
13 I'll contact them today and tell them to mail it but --

14 THE COURT: I thought you said that they
15 were going to be produced within two weeks. That was
16 the agreement back in October.

17 MR. ZUCKERMAN: Yeah, but then we had this
18 dispute over the confidentiality so I requested in the
19 letter that that be extended. I mean, Mr. Dee is still
20 claiming we're under a confidentiality -- we're bound
21 by confidentiality when he's not. I mean, it doesn't
22 make any sense.

23 THE COURT: What are you talking about? Did
24 anybody sign anything about confidentiality? He
25 doesn't want you to use his client's medical records.

1 That would be his interest in getting a confidentiality
2 agreement. And perhaps Patricia, Priscilla, and David
3 have no problem saying that they will keep this records
4 confidential. That would be fine with me.

5 MR. ZUCKERMAN: I'm talking about the Kings
6 County D.A. documents. Mr. Dee says we're under an
7 obligation to keep them confidential and David Ranta
8 can go on the internet and use them for any purpose he
9 wants.

10 THE COURT: I don't know why he's saying
11 that.

12 Mr. Dee, if there's no confidentiality order
13 in place, why do you think they have a duty to keep
14 them confidential?

15 MR. DEE: I think there should be a
16 confidentiality order in place with respect to the
17 defendant's use of these unsealed documents.

18 THE COURT: What's good for one side is good
19 for the other side. If there's going to be a
20 confidentiality provision, it's going to cover the
21 three plaintiffs that you represent as well as the
22 defendants.

23 MR. DEE: That's okay, but I've also got to
24 be able to give the documents to Mr. David Ranta and he
25 should not be encumbered with how he uses them.

1 THE COURT: He's not a plaintiff here so I
2 wouldn't say that I could insist that David Ranta would
3 do anything. He's not a plaintiff.

4 MR. DEE: Or that I could not transmit them
5 to him. I think that's --

6 THE COURT: I'm not saying -- I'm not saying
7 any of that. You were his agent for purposes of the
8 release. I understand what their concern is but David
9 Ranta is a free agent. He should have been able to get
10 these from Pierre Sussman but I understand that there
11 may be more records that have become available because
12 of a change in the law, and that's something that the
13 D.A.'s office and the City is going to have to live
14 with. But I do not have David Ranta in this lawsuit.

15 I understand that he has signed a CPL 160.50
16 release that provides that the sealed records
17 underlying his criminal court case shall be made
18 available to him or to his designated agent, who is
19 you, Mr. Dee. I am not ruling that you cannot give
20 these cases (sic) to David Ranta because I think CPL
21 160.50 on the face of it provides that he's entitled to
22 these records.

23 MR. DEE: But I would also make one
24 additional point, that if David Ranta and I go through
25 these records, we talk about witnesses that were used

1 in different cases, there may be things that we're
2 looking at these documents or talking to certain
3 witnesses in there that aren't necessarily for this
4 case. And if he authorizes me or wants me to do that
5 or we come to some agreement on that, I don't want to
6 be bound by a limitation in a confidentiality order in
7 this case as to what I might be able to do with or on
8 behalf of Mr. David Ranta in the future unrelated to
9 this case. That's my main issue, in addition to
10 preventing from David Ranta from doing anything on his
11 own, as of his own right.

12 THE COURT: Again, I do not have David Ranta
13 in this case. Mr. Dee, usually, a confidentiality
14 order is protecting the documents that are exchanged in
15 discovery, saying that the plaintiffs will not use it
16 for any other purpose. It doesn't usually deal with
17 the lawyers because the lawyers have all sorts of
18 ethical obligations by virtue of them being officers of
19 the Court.

20 MR. DEE: Exactly. Okay, that's fine with
21 me.

22 THE COURT: Well, I don't know what you're
23 saying is fine with you. Both sides have taken what
24 I've said in prior conferences and, in their own mind,
25 think that it supports their version of what should

1 happen in this case.

2 Look, Mr. Zuckerman, I understand it's a
3 holiday. I don't want to make your life or the Kings
4 County D.A.'s life more miserable. I'll tell you to
5 produce by the 1st, which is Tuesday. It gives you an
6 extra several days. But that should be the disks --
7 listen, sir, don't start mailing them by regular mail.
8 If you need to get something there, you know how to
9 overnight mail it.

10 Where is it that it should be sent, Mr. Dee,
11 because I don't want them sending it to an office that
12 you no longer go to.

13 MR. DEE: I can have -- I can send an
14 address to Mr. Zuckerman.

15 THE COURT: Mr. Zuckerman, the Kings County
16 D.A. is going to have to turn over these records, and
17 you're coming up with reasons why it wasn't done right,
18 and Mr. Ranta has a right to those records. He signed
19 a 160.50 release. The Court is directing you to turn
20 over the documents. Have I made myself clear?

21 MR. ZUCKERMAN: Absolutely. I just have a
22 question about the confidentiality, that defendants are
23 not under any confidentiality agreement --

24 THE COURT: Did anybody sign a
25 confidentiality agreement?

1 MR. ZUCKERMAN: No.

2 MR. DEE: No.

3 MR. ZUCKERMAN: But Mr. Dee has requested
4 that.

5 THE COURT: Yes, but --

6 MR. DEE: Before I turn over the documents
7 to the defendants, we will have to sign something about
8 that.

9 THE COURT: Well, both sides are going to
10 have to make arrangements. When you say before I turn
11 over documents to the defendants, you're talking about
12 the medical records.

13 MR. DEE: And the documents that the D.A.'s
14 office might turn over because the defendants --

15 THE COURT: Again, you can't hold them to
16 confidentiality if you're not going to have any
17 reciprocal obligation.

18 MR. DEE: Well, I will agree that on behalf
19 of the plaintiffs, we can make that reciprocal
20 obligation. But as the Court noted -- as your Honor
21 noted, as an officer of the Court, as an agent, as
22 David Ranta's agent, that's outside of the scope of
23 this case. But for the plaintiffs themselves, I can
24 agree to that.

25 THE COURT: So that's what you need to do,

1 Mr. Zuckerman. You need to get Patricia Ranta,
2 Priscilla Ranta, and Nicholas Ranta an agreement in
3 place with Mr. Dee. But as far as Mr. Dee being an
4 agent for David Ranta for the purpose of the 160.50
5 release, I don't think that you can bind him as an
6 attorney from giving those documents over to David
7 Ranta, and you've provided no legal support for your
8 position that he should be bound by some
9 confidentiality provision. There's been nothing --

10 MR. ZUCKERMAN: But we're not bound -- but,
11 your Honor, we shouldn't be bound either then. I mean,
12 he can't bind us -- if Mr. Dee isn't going to be bound
13 by a confidentiality agreement, as your Honor I think
14 stated, we shouldn't be bound by it, either.

15 MR. DEE: Your client should be.

16 THE COURT: He said that he could agree on
17 behalf of his clients, who are the plaintiffs in this
18 lawsuit. He said that he will agree to keep the
19 records confidential for the purpose of Patricia,
20 Priscilla, and Nicholas Ranta's lawsuit, and that he
21 wants you to agree to do the same. That has nothing to
22 do with David Ranta.

23 MR. ZUCKERMAN: Well, I think it does
24 because they're not keeping the records confidential by
25 giving it to David Ranta.

1 THE COURT: They are not.

2 MR. ZUCKERMAN: If they're giving it to
3 David Ranta --

4 MR. DEE: They're his records.

5 THE COURT: They are not.

6 MR. DEE: They're his records.

7 THE COURT: Mr. Dee as his authorized agent
8 is able to do that. Whether the City likes it or not,
9 that's what David Ranta did. He authorized not the
10 City but Mr. Dee to get those records. That's what he
11 did. I know the City wanted it to be that the City was
12 authorized by David Ranta. That's not what happened.
13 David Ranta authorized Mr. Dee. So Mr. Dee is
14 authorized to get those records and he's authorized to
15 give them to Mr. David Ranta, and the City will also
16 get a copy of those records. But when you say you
17 don't want the City to be bound by any confidentiality,
18 what does that possibly mean, Mr. Zuckerman?

19 MR. ZUCKERMAN: Well, all it means is --

20 THE COURT: You don't want him to give you
21 the records because you're not going to agree to keep
22 them confidential, and Mr. Ranta is only authorizing
23 Mr. Dee to get those records for the purpose of
24 Patricia, Nicholas, and Priscilla's case? So you want
25 him to get those records and use them but not give them

1 to the City?

2 MR. ZUCKERMAN: No. I'm saying that if
3 David Ranta is going to go on the internet or be
4 interviewed on t.v., whatever he decides to do, it's
5 standard in confidentiality agreements that we should
6 be able to respond if we choose. I'm not saying we
7 would but if we choose.

8 THE COURT: If you want to respond to what?

9 MR. ZUCKERMAN: To whatever David Ranta does
10 with these documents.

11 THE COURT: And what am I tell you you can't
12 respond to?

13 MR. ZUCKERMAN: Well, if we're under a
14 confidentiality agreement, then we can't respond.

15 THE COURT: Look, sir, these records were
16 unsealed and are being given to Mr. Dee. They must be
17 given by -- the first production has to be by December
18 1st. Have I made myself clear? That will be in bright
19 prose in my order so that it's not a week from or two
20 weeks from, by December 1st, and that you should make
21 arrangements to get them to Mr. Dee, wherever Mr. Dee
22 is directing you to get them to him. And as far as the
23 City wanting Mr. Ranta to keep them confidential, I
24 have no control over David Ranta. He's not a party to
25 this action and he doesn't have to agree to keep these

1 documents confidential. This law was put in place to
2 protect his records, not to protect the City.

3 So I do think it's in your interest, Mr.
4 Dee, and your interest, Mr. Zuckerman -- and, Mr. Ha, I
5 know you'll go along with however this goes -- to
6 negotiate some sort of mutual protective order because
7 I know that Patricia Ranta doesn't want her mental
8 health or doctors' records to be used for any purpose
9 other than this litigation. And as long as Patricia,
10 Priscilla, and Nicholas can agree that they won't use
11 what is being released by David Ranta for any other
12 purpose, that does not tie Mr. Dee's hands. Mr. Dee
13 was the authorized agent to get these. I don't expect
14 that Mr. Dee will be posting them anywhere. I imagine
15 he'll just give them to David Ranta and that will be
16 what he's been authorized to do.

17 MR. HA: Judge, I just have one concern.

18 THE COURT: This is Mr. Ha?

19 MR. HA: Yes, Judge. I just have one
20 concern. The parties have been trying to negotiate a
21 stipulation protective order. In addition to this
22 issue of the confidentiality of David Ranta's criminal
23 records, there are also other issues in dispute that's
24 sort of holding up the agreement. The concern I have
25 is, if the agreement is being held up, that's going to

1 delay us getting the records.

2 THE COURT: What are the other issues? All
3 I keep getting are the same issues. I keep getting the
4 same issues. I know that there is a medical release
5 issue. I think that that was already done, right? Mr.
6 Dee provided releases for eight providers, so that's
7 done. There's a confidentiality issue and I brought up
8 that we cannot hold David Ranta to confidentiality.
9 He's not a party to this case. He has a right to his
10 own sealed records and that Mr. Dee may provide those
11 records to him because he was designated as David
12 Ranta's agent.

13 MR. HA: There are other issues that --

14 THE COURT: What is it that you're speaking
15 to, Mr. Ha?

16 MR. HA: One other issue is the
17 confidentiality of police disciplinary records. Mr.
18 Zuckerman had made a proposal, I think it was late last
19 week, to resolve this and maybe he can speak directly
20 to that, but we have not been able to resolve that.

21 THE COURT: Mr. Zuckerman, there's nothing
22 in your papers about it. Do you want to brief it for
23 me?

24 MR. ZUCKERMAN: Yes, I'd like to brief the
25 confidentiality issues.

1 THE COURT: Not of everything because I am
2 ordering you to produce those records that you were
3 supposed to produce within two weeks, as of your
4 November 10th letter, which is document 74. Those will
5 be produced on December 1st. If you want to brief
6 something for me about the disciplinary records, you
7 can do that by Friday, December 4th, and it better have
8 case law support for it, not just be, we don't want to
9 turn over these records. And the way I understand it,
10 50(h) has now been changed by the state and so records
11 should be made available.

12 MR. HA: Would it be possible, Judge, if
13 your Honor is directing the parties in this case, the
14 plaintiff and defendants, to keep David Ranta's
15 criminal records only for use in this case confidential
16 and only to be used in connection with this case, that
17 if we the understanding, then Mr. Dee, once he gets the
18 records from the D.A.'s office, can just go ahead and
19 provide us with copies while we wait to have the other
20 issues resolved.

21 THE COURT: That's what I expect Mr. Dee to
22 do. I'm telling the D.A. that they have to get them to
23 Mr. Dee by the 1st. And if there are other issues
24 regarding records that you want the Court to address,
25 you should not raise it orally when you've give me

1 nothing to support any argument that there are other
2 issues here. We had the medical record releases.
3 That's been done. There's a disagreement about the
4 discovery schedule. Defendants think it shouldn't
5 begin until there's a confidentiality stipulation.

6 I don't see that, Mr. Zuckerman, in the
7 rules anywhere. So I think that you are dragging your
8 feet a bit, Mr. Zuckerman, and I'm not going to let
9 that happen. I want you to move on this. I want the
10 D.A. to turn over what was supposed to be turned over
11 within two weeks by December 1st. Make sure you have
12 the right address for Mr. Dee.

13 As far as the medical releases and the
14 confidentiality, I believe that Priscilla, Nicholas,
15 and Patricia might be willing and should be willing,
16 because they want their own medical records to be kept
17 confidential -- but I'm not going to take this on the
18 fly, just you give me letters, you don't follow up with
19 the letters, meaning it was supposed to be done. The
20 production on disks of the documents previously
21 produced to Ranta's attorney were supposed to be
22 produced within two weeks of the November 10th letter.
23 That would be today. It isn't happening. I'm giving
24 you until December 1st to do that.

25 I am directing you, Mr. Dee, to go back to

1 the table with Mr. Zuckerman and Mr. Ha because you're
2 going nowhere fast here. I won't let them stonewall
3 you and I won't let them bully you into signing
4 something where you can't give these records to Mr.
5 Ranta because I don't think the law provides for that,
6 but you do need to protect your own clients' records
7 and you do need to speak to your clients because David
8 Ranta is not your client, about trying to get something
9 resolved here so you can move past this.

10 MR. DEE: We will do so, your Honor. I
11 think Mr. Ha's point -- I agree with that. Once the
12 D.A. turns over the documents on December 1st, the
13 unsealed documents, I'll gladly share them with the
14 defendants right away, as long as they agree to hold
15 them in confidence until we agree or the Court orders
16 with respect to the confidentiality.

17 THE COURT: But, again, your clients,
18 meaning Priscilla, Nicholas, and Patricia, have to be
19 part of this.

20 MR. DEE: Yes, yes, that's agreed.

21 MR. ZUCKERMAN: Your Honor --

22 THE COURT: If there's going to be -- if
23 there's going to be a motion made, if you're going to
24 brief a motion, I want you serve it by next Friday, Mr.
25 Zuckerman. All I've gotten are letters and the letters

1 cite not a single case. So if you're trying to tell me
2 that I have a duty to do something in this case, I
3 would like you to give me some case law support from
4 the Second Circuit for what it is you're proposing.
5 And if you don't have that, then don't make -- don't
6 make the request.

7 MR. ZUCKERMAN: Your Honor, there are a lot
8 of district court cases on that 50(a) issue.

9 THE COURT: No, it's changed, sir, because
10 there's been new legislation.

11 MR. ZUCKERMAN: And judges have ruled on it
12 and ruled that it doesn't change the fact that federal
13 law and the Federal Rules of Civil Procedure --

14 THE COURT: That's good. Then you'll be
15 able to provide me with case law support, but I'm not
16 doing this on the fly, when you bring up nothing about
17 it in your letters to the Court. So if you want to
18 brief the issue, by next Friday. And by next Tuesday,
19 you'll produce to Mr. Dee the documents that were
20 referred to in the November 11th letter.

21 Is there anything else today, Mr. Dee,
22 before we adjourn?

23 MR. DEE: Not for plaintiffs, your Honor,
24 thank you.

25 THE COURT: Again, Mr. Dee, you're playing

1 in a dangerous spot here because you don't represent
2 David Ranta. I understand that you're the agent that
3 was made in the 160.50 designation but I am saying you
4 want to move along the case of Priscilla, Nicholas, and
5 Patricia, and these issues are not helping us move
6 along the case.

7 MR. DEE: They are not but I cannot let the
8 City dictate to do whatever they want just because we
9 want to resolve this case, either. So I appreciate
10 that but they have been informed every step of the way
11 of what's going on.

12 THE COURT: Well, I'll appreciate you trying
13 to work out the issue regarding the disciplinary
14 records with Mr. Ha and with Mr. Zuckerman, and maybe I
15 won't have to decide the issue. Maybe the parties
16 could agree, okay?

17 MR. DEE: Understood, your Honor.

18 THE COURT: Okay. So it's a direct order of
19 the Court, Mr. Zuckerman, that the D.A. will produce
20 those records by the 1st, and you should find out where
21 Mr. Dee wants them to be sent, and they should not be
22 sent snail mail. They should either be overnight mail
23 to him or delivered to him. They're disks.

24 Anything else, Mr. Zuckerman, before we
25 adjourn?

1 MR. ZUCKERMAN: Yeah, I do have one
2 question, your Honor. Are you ruling that the City has
3 to enter into a confidentiality provision as to the use
4 of the Kings County D.A. documents given your Honor's
5 order that Mr. Dee may turn them over to David Ranta?

6 THE COURT: That was a complete non
7 sequitur. I said that you must turn them over to Mr.
8 Dee. I didn't say that you must do anything else.

9 MR. ZUCKERMAN: Then could there at least be
10 an order to Mr. Dee to turn over the documents to us --

11 THE COURT: He said he would.

12 MR. ZUCKERMAN: -- so that we can use them?

13 THE COURT: He said he would.

14 MR. ZUCKERMAN: Okay, but I just want to be
15 clear that the City is not bound to enter into a
16 confidentiality provision as to these Kings County D.A.
17 documents in order to receive them.

18 THE COURT: You know, again, I just
19 suggested that you speak to each other about working
20 this out for the plaintiff and the defendants in this
21 action, which would not bind David Ranta because he's
22 neither a plaintiff nor a defendant. You keep wanting
23 to go back to reiterate. I can't require the parties
24 to enter into this agreement. I suggest that the
25 protective order will cover the disclosure of these

1 records, which will be obtained from the D.A.'s office,
2 and that both Priscilla, Nicholas, and Patricia Ranta
3 and the defendants, and the two named defendants, will
4 enter into some sort of confidentiality order. But I
5 have not ordered you to sign something and I have not
6 ordered Mr. Dee to sign something.

7 MR. ZUCKERMAN: Then, your Honor, I would
8 request that when Mr. Dee get those disks, that they be
9 immediately provided to defendants' counsel.

10 THE COURT: Mr. Zuckerman, you haven't given
11 to him yet. If he doesn't give them to you, I'm sure
12 you know where to write. You're talking about he must
13 immediately do X and Y and you haven't done anything.
14 And you wrote to the Court on the 10th and said you
15 would produce those documents within two weeks. It's
16 hubris for you to raise that to me now. Try to work
17 this out with Mr. Dee. He cannot sign away Mr. David
18 Ranta's rights. He's getting these documents for the
19 purpose of his clients, Patricia, Nicholas, and
20 Priscilla.

21 Anything else, Mr. Zuckerman?

22 MR. ZUCKERMAN: No, your Honor.

23 THE COURT: Anything else, Mr. Ha?

24 MR. HA: No, Judge, thank you.

25 THE COURT: Then this matter is adjourned.

1 Happy holiday, everybody.

2 MR. HA: Thank you, Judge.

3 THE COURT: I'll put out an order. Thank
4 you.

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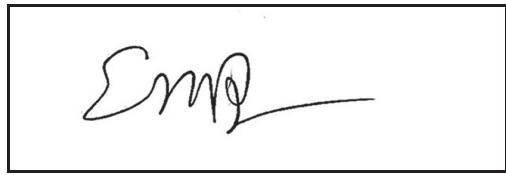
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I certify that the foregoing is a correct
transcript from the electronic sound recording of the
proceedings in the above-entitled matter.

A handwritten signature in black ink, enclosed in a rectangular box. The signature appears to read "EMP" followed by a stylized surname.

ELIZABETH BARRON

December 10, 2020